

Prior law (Ch.C. Art. 116(3)) defined "child" as a person not yet 17 years of age. New law defines "child" as a person not yet 18 years of age.

Prior law (Ch.C. Art. 116(6)) defined "guardianship of the person of a child" as the duty and authority to make important decisions regarding the child, subject to any parental rights. New law changes the definition of "guardianship of the person of a child" to "legal guardianship", consistent with terms in the Adoption and Safe Families Act (ASFA).

Prior law (Ch.C. Arts. 601, 603, and 615) provided that the purpose of child in need of care (CINC) proceedings is to protect children at risk of abuse, neglect, or exploitation. New law adds that proceedings shall be conducted expeditiously and that the health, safety, and best interest of the child are the paramount concern in all CINC proceedings, in accordance with ASFA mandate for health and safety to be of primary concern, and makes additional definitional and conceptual changes consistent with this mandate, and with ASFA's mandate for expeditious handling of child placement issues. New law further provides that CINC provisions shall be construed in accordance with Article 102.

Prior law (Ch.C. Arts. 619, 624, and 625) regarding issuance of instantner orders for removal of a child from the home, required "reasonable efforts" to eliminate a need for the child's removal, and provides for a summons commanding the parents to appear at a continued custody hearing on the instantner order. New law provides for measures to eliminate unnecessary delay and misunderstandings in continued custody hearings, including specific advice of rights to be disclosed to parents.

Prior law (Ch.C. Arts. 628 and 629) provided for an informal adjustment agreement to be authorized by the court or district attorney prior to or after the filing of a CINC petition. New law provides that the department must consent to and sign off on any such agreement if the child is in its custody.

Prior law (Ch.C. Arts. 632, 636, 639, 642, 644, 645, and 646), regarding child in need of care (CINC) petitions, allowed extension of the time for filing petition, provides for issuance of summons for child, his parents and others to appear, provides for the form of notice to parents, requires the department to provide information concerning the parents' location, allows the court to require the parents to appear and answer, and provides that if the petition is filed prior to a determination on continued custody, the court may order the parent to answer the petition or stipulate the child in need of care.

New law requires a "best interest of the child" determination before granting extension of time for filing, requires parents to appear to answer petition, requires notification to parents that a petition to terminate the parent's parental rights may be filed, authorizes court to hold hearing in parents' absence. New law also adds to the duties of curator ad hoc, including informing parents of right to counsel if indigent, and that parental rights may be terminated through judicial certification for adoption. New law makes further procedural changes to CINC proceedings consistent with ASFA mandate for eliminating unnecessary delay in proceedings.

New law (Ch.C. Art. 646.1) is new and provides for prehearing conferences to be convened by the court to dispose of matters as may aid in the disposition of the action, and for an order to issue reciting action taken at the prehearing

conference, which shall control the future course of the case, and further provides for sanctions for any party's failure to obey orders, appear at prehearing conferences, or participate in good faith.

Prior law (Ch.C. Art. 647) provided that a parent may stipulate that the child is in need of care with the consent of the petitioner provided that parent appears and is fully informed of his rights and the meaning of such a stipulation. New law provides that the department must also approve such a stipulation by a parent if the child is in the custody of the department.

Prior law (Ch.C. Arts. 659 and 666) provided for the court to grant, deny, or restrict continuance of an adjudication hearing in the best interest of the child, and allows the court to take the matter under advisement. New law restricts continuances to "extraordinary circumstances" for up to five additional days and limits the period of advisement to 10 days.

New law (Ch.C. Art. 672.1) adds a new provision allowing department, in CINC proceeding, to motion court not to require reunification efforts in certain cases, including if court determines parent subjected the child to egregious conduct, parent committed murder or manslaughter of another child, or parent committed a felony resulting in serious injury to the child or another child, and further provides that if reunification is not required, a permanency hearing shall be conducted within 30 days, all in further compliance with ASFA expediency mandate.

Prior law (Ch.C. Arts. 673, 674, 677, 678, and 679) provided for case plan, and approval of case plan if in best interest of child, and for disposition hearing thirty days after CINC adjudication, with continuance for good cause. New law requires plan to document the agency's efforts to return child home or finalize other permanent placement, and documentation that the eventual petitioning for termination of parental rights would not be in the child's best interest, and requires court to justify any continuances of disposition hearing, and provide notice of same to all parties.

Prior law (Ch.C. Arts. 682, 683, and 684) allowed removal of child from the custody of his parents for his welfare, and that when a child is removed, the court shall enter findings why reunification is not workable, and provides for certain information to be included in order if a child is removed from parental custody. New law provides for court determination of reasonable efforts to reunify the parent and child, or to finalize placement efforts, and provides for additional information to be given to parents if removal is ordered.

Prior law (Ch.C. Arts. 697, 698, and 700) provided for notice of case review hearings to foster parents, and provides that the court may either approve or order the department to revise the case plan. New law requires a case review hearing to proceed in the absence of a parent if the parent was served or service was unsuccessful, and provides for notice of case review hearings to adoptive parents and relatives caring for the child. New law further provides that the court shall inform the parents of their obligation to cooperate with the case plan and that a termination of parental rights petition may be filed.

Prior law (Ch.C. Arts. 702, 704, 705, 707, 708, and 709) provided for dispositional review hearings no more than twelve months after removal, and every twelve months thereafter until child is placed, and provides for notice to foster parents of dispositional review hearings, allows any person to intervene in a permanency review proceedings to facilitate a permanent placement for the child, and provides that the court may limit the admissibility

or weight of evidence. New law changes the name of dispositional review hearings to "permanency hearings," and provides that court shall conduct a permanency hearing within 30 days of a determination that reunification efforts are not required, and that the court shall determine the best permanent plan in accordance with priorities consistent with ASFA objectives, specifies parties who may be present at dispositional review as foster parents, adoptive parents, or relatives caring for the child, and provides for the court to consider evidence not admissible at the adjudication hearing.

Prior law (Ch.C. Arts. 710 and 711) provided for the court to put in writing the permanent plan for the child, and that any person affected may appeal the findings or orders of the court.

New law provides that a written judgment shall be issued, determining the most appropriate permanent plan, whether the department has made reasonable reunification efforts, and whether an out-of-state placement is safe, appropriate, and in the best interest of the child, and that the court may enter orders as needed to facilitate the child's permanent plan, including filing a certification for adoption.

New law provides for revision of Children's Code Title X in accordance with the Adoption and Safe Families Act of 1997 (ASFA).

New law includes "safety" of the child as a consideration in termination of parental rights proceedings, and changes "guardianship of the person" to "legal guardian".

Prior law (Ch.C. Art. 1004) specified who may file for the termination of parental rights. New law expands the authority of the department to initiate proceedings for the termination of parental rights.

Prior law (Ch.C. Art. 1015) specified grounds for termination of parental rights. New law conforms to federal law by including aggravating circumstances relieving the department of a duty to reunite the family, adds abuse of "any" child in the household and "chronic" abuse to the misconduct ground, specifies "felony assault", and changes "conviction of murder" to "murder" as a ground for termination; adds abandonment to the department as an abandonment ground, and adds considerations of the child's age and need for a safe, stable, and permanent home when he is in department custody and the parent is incarcerated.

Prior law (Ch.C. Art. 1025.4) provided for the prehearing conference in termination proceedings. New law adds considerations to the prehearing conference, including alternatives to court process, efforts to locate parents and others, and blood testing when paternity is at issue.

Prior law (Ch.C. Arts. 1027 and 1028) provided for discovery and access to department records in termination proceedings, and allows the department to move to restrict parents' access to information. New law revises discovery provisions and clarifies that only discovery as provided in Ch.C. Art. 1027 is available in termination proceedings, and further allows the court to restrict discovery for good cause shown, including upon its own motion, and allows the court to seal the written motion.

Effective July 1, 1999.

(Amends Ch.C. Arts. 116(3), (8), and (9.1), 601, 603(1), (8), (14), and (15),

615(C), 619(B) and (E), 624(A) and (B), 625(B), 626(B), 628, 629, 632(B), 636, 639, 642, 644(A), 645, 646, 647, 648, 649, 652(C) and (D), 659(B), 666(A), 673, 674, 675, 677, 678(B), 679, 680, 681(A)(intro. para.) and (4), 682, 683(A), 684(B), (C), (D), (E), and (F), 694(A), 695, 698(A), 700(A), 702, 704(A), 705, 707(A), 708(A), 709, 710, 711, 1001, 1003(1)(intro. para.), (10), and (11), 1004(D), 1015(3)(intro. para.) and (a), (h)-(j), (4)(intro. para.), (5), and (6), 1025.4(A) and (C), 1027, and 1028; Adds Ch.C. Arts. 116(12.1), 603(7.1) and (14.1), 625(C) and (D), 627(D), 646.1, 672.1, 678(C), 684(G), and 1015(3)(k); Repeals Ch.C. Arts. 116(6), 603(11), and 650)